

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL APPLICATION NO.1016 OF 1995

And

CIVIL APPLICATION NO.1644 OF 1995

And

LETTERS PATENT APPEAL NO.189 OF 1995

In

SPECIAL CIVIL APPLICATION No 3430 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

Majoor Mahajan Sharafi Sahakari Mandli Ltd.

Versus

Mahalaxmi Mills Kamdar Sharafi Sahakari Mandli Ltd.
and others.

Appearance:

Mr.Shirish Joshi for applicant
Mr.Tushar Mehta for the respondents

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE J.R.VORA

Date of decision: 12/08/98

ORAL JUDGEMENT

Heard learned counsel.

This Application seeking condonation of delay for

a period of 166 days has been moved in the time barred Letters Patent Appeal directed against the order passed by the learned single Judge way back on 30.9.94. It has been stated in the Application that the information about the decision rendered by the Court did not reach the registered address of the applicant - Society and even the copy of the judgment, which was sent to it by the lawyer, was lost in transit. The applicant then goes on to say that it came to know from 'other source' about the impugned judgment and thereafter on 20.4.95 it wrote a letter to his lawyer which was responded back by the lawyer on 1.5.95 and the copy was then received on 6.5.95 which was the last working day. The Appeal was filed on reopening of the summer vacation. Mr. Mehta, who had appeared in response to the Rule issued, has opposed this Application and has submitted that there is no ground for condonation of delay.

We find that the delay of 166 days is sought to be condoned on absolutely bald and vague averments. It is not known as to on what date the information was sent by the lawyer to the Society, which did not reach the registered address, by what mode such information was sent is also not known and the further vague averments that the copy of the judgment which was sent by the lawyer was also not received by the applicant -Society and the same was lost in transit, are rather unbelievable. The applicant has also not given that 'other source' through which it came to know about the judgment. In any case, it cannot be said in the facts and circumstances of this case that the applicant was prevented by any reasonable and sufficient cause from filing the Appeal within time. There is no case for condonation of delay. This Application seeking condonation of delay of 166 days is hereby rejected. Rule is discharged with no order as to costs.

Consequently the time barred Letters Patent Appeal also cannot be entertained and the same is hereby dismissed as time barred.

In view of the orders,as aforesaid, no orders are required to be passed in the Civil Application with regard to stay and the same is disposed of accordingly.